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EXAMINER	
STRONCZER, RYAN S	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/802,589	HAWKINS ET AL.	
	Examiner	Art Unit	
	Ryan Stronczer	4157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim Objections

Claims 3 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 3 fails to further limit claim 1, which recites in part, "...the processor executing logic comprising...accessing at least one database containing selected data from the group consisting of third party marketing data, demographic data, consumer profile data, and consumer search history data."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Pontenzone et al. (Pub. No. US2002/0152278).

As to claim 1, Pontenzone teaches a content delivery management system that enables a user to create a customized playlist or internet radio station wherein:

> ...the content delivery management system comprises a database for storing information describing the content able to be delivered by one or more stations over the network...A user search module also preferably

> permits a user of the system to search the information stored in the database by a song name, artist name, or recording name…In yet another aspect, the content delivery management system comprises a reporting module that compiles data based on song content delivered by each of the one or more stations, including data relating to the popularity of specific content with listeners of the stations. [0008-11]

Claim 1 recites "at least one digital processor accessing the database and configured for communicating with a client device of a network." A digital processor is inherent in the system taught by Pontenzone since Pontenzone's system uses the Internet. As to the limitation that the system includes a database containing "heterogeneous multimedia content," Pontenzone teaches, "…it will be readily appreciated that the system and method of the present invention can also be used to for other types of content, such as multimedia or video content" [0026].

Claim 3 is rejected as applied to claim 1 since it does not further limit claim 1.

As to claims 2 and 4, the system taught by Pontenzone is intended to be used by any user with Internet access and a web-browser, thus the functionality of claims 2 and 4 are inherent in the system taught by Pontenzone.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been

obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 5-6, 13-14, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pontenzone et al. as applied to claims 1-4 above, and further in view of Hempleman et al. (US Patent No.: 6,243,725).

Claim 5 recites the system of claim 1, further comprising "wherein the logic comprises allowing a user to select a title from the playlist and if the metadata associated with the title indicates a billable event, billing the user for downloading content associated with the title." Pontenzone teaches a method wherein a user can request a song to be added to the database but does not explicitly teach a method for electronically purchasing said requested content. Hempleman teaches a system for creating a playlist via a user-initiated search request, similar to that taught by Pontenzone. Fig. 6 of Hempleman teaches a "credit card input device" that facilitates the purchase of multimedia content over a network. "The unit **20** also supervisory and billing services in response to requests by the end user's unit **22** for access to one or more of the works stored in the inventory in the databases **20***b*" (Col. 6, Lines 55-60). It would have been obvious to one skilled in the art at the time of the invention to combine the purchasing functionality taught by Hempleman with the content request functionality taught by Pontenzone to facilitate the purchase of requested content.

Claim 6 recites further comprising "recording billing of the consumer in a database communicating with the network." As discussed above, Fig. 6-7 of Hempleman teach methods for accepting payment from a user. Regarding

keeping records of transactions, Hempleman teaches, "[r]eport information can be transmitted to the system **20** for billing purposes…as well as making royalty payments to appropriate recipients" (Col. 7, Line 34-39). The system (object **20**) is located remotely from the user and is connected to the terminal via an Internet connection, as shown in Fig. 6-7.

Claim 13 is rejected by Hempleman as applied to claim 5.

Claim 14 is rejected by Hempleman as applied to claim 6.

Claim 21 is rejected by Hempleman as applied to claim 5.

Claims 7-12, 15-20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pontenzone as applied to claims 1-4 above, and further in view of Asmussen et al. (Pub. No.: US2002/0042923).

Claim 7 recites the system of claim 1, further comprising the limitation, "…generating the search vector based on a search command received from the consumer, the search vector being stored in at least one database on the network." Asmussen teaches a system which allows a user to search for multimedia content on a digital communication network and which tracks user data, "[a] user database server **511** maintains an aggregator user database **512**, which stores and processes information including, but not limited to, user account data, user profile information, user subscription services, user access rights, and past user search and download data (if authorized by the user)" [0072]. It would have been obvious to one skilled in the art at the time of the invention to incorporate the user database server taught by Asmussen into the system taught

by Pontenzone to provide better users of Pontenzone's system with increased access to available content.

Claim 8 recites a method for "generating a multimedia playlist for display thereof to a consumer…comprising: accessing profile data associated with the consumer; accessing historical search data and purchasing data; retrieving historical search and purchasing data; searching for multimedia content; the multimedia content not being constrained to be homogeneous; and generating a playlist based on the searching act." Pontenzone teaches a method for generating a multimedia playlist based on a user search and allows users to create user profiles or identities that are stored on the network, but does not explicitly teach methods for archiving user search history or for using such archives to generate search results. Asmussen teaches a method for searching content on a digital communications network, including functionality to generate content suggestions based on user profile data. Asmussen teaches, "[t]he apparatus may further comprise a user-defined filter, including a user history filter; a user profile filter; and an approved access filter…the ranking module may rank the content according to one or more of a user historical analysis report and similarities to previously accessed content by the user" [0027]. It would have been obvious to one skilled in the art at the time of the invention to use the playlist-generation functionality taught by Pontenzone to compile a playlist consisting of content based on the user profile and search data provided by Asmussen in order to increase product functionality and provide users of Pontenzone's system with access to content they may not have found on their

own, thus increasing the customer base of the various "stations" of Pontenzone's system.

Claim 9 recites the method of claim 8, "...without constraining the client device to be a particular single type of device." The systems taught by both Pontenzone and Asmussen are intended for use over the Internet, which can by accessed by users via a wide variety of device types.

As to claim 10, both Pontenzone and Asmussen provide functionality for users to initiate a search.

Claim 11 recites the method of Claim 10, "...wherein the playlist is stored in a database on the network." This functionality is inherent in the system taught by Pontenzone since the playlists generated by Pontenzone are intended to be accessed by many users via the Internet.

Claim 12 is rejected by Pontenzone as applied to Claim 11.

Claim 15 is rejected by Asmussen as applied to Claim 7 above.

Claim 16 recites "[a] network for providing a consumer with titles of heterogeneous multimedia content expected to be of interest of he consumer comprising: means for storing profile data related to the consumer...means for generating a playlist associated with the consumer ...means for allowing the user access to the network to display the playlist and select at least one entry thereon." As applied to claims 1 and 8, Pontenzone teaches a system for generating a playlist of heterogeneous multimedia content based on a search result, but does not explicitly disclose the functionality to generate a search result based on a user's profile information and search history. Asmussen teaches,

> The content search suggestion engine **304** shown in FIGS. 6a-6c builds and maintains the suggestion database **308**...Content is suggested by creating a list of suggested search criteria based on the user's profile, history, and current search request and submitting this suggested search criteria in parallel with the user defined search criteria to the search engine server **350**. [0075]

As applied to claim 8, it would have been obvious to one skilled in the art at the time of the invention to combine the teachings of Pontenzone and Asmussen to provide the claimed functionality.

Claim 17 recites the network of claim 16, further comprising, "...means for accessing profile data associated with the consumer; means for accessing historical search and purchasing data...means for using retrieved historical search and purchasing data, searching for multimedia content...and the means for generating a playlist accessing the results of the means for searching." Pontenzone teaches a method for generating a multimedia playlist based on the results of a search; Asmussen teaches a system which uses user profile and historical search data to generate a list of suggested content for a user. As applied to claims 8 and 16 above, it would have been obvious to one skilled in the art at the time of the invention to combine the teachings of Pontenzone and Asmussen to provide the claimed functionality.

Claim 18 is rejected by Pontenzone and Asmussen as applied to claims 8, 16, and 17 above.

Claim 19 is rejected by Asmussen as applied to claims 7 and 15 above.

Claim 20 is rejected by Pontenzone as applied to claim 12.

Claim 22 is rejected by Asmussen as applied to claim 7.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Stronczer whose telephone number is (571) 270-3756. The examiner can normally be reached on 7:30 AM - 5:00 PM, M-F. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on (571) 272-7332. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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